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Marlene H. Dortch, Esq., Secretary Federal Communications Commission 445 Twelfth Street, S.W Washington, D.C. 20554

Re: Request for Review by Albuquerque Public School District

CC Docket Nos. 96-45 and 97-21, DA 03-2206

EX PARTE PRESENTATION

Dear Secretary Dortch

As a follow-up to our meetings last week, APS submits the following information in response to various questions that were raised. Two copies of this information are being filed this day with the Secretary's office. Specifically, this letter addresses five areas of questioning: (1) whether the Western States Contracting Alliance ("WSCA") Request for Proposals ("RFP") dealt with maintenance and support services in addition to computer hardware, (2) if so, whether IBM's bid contained proposals for maintenance and other related support services; (3) how pricing for services under the Master Price Agreements works, (4) the relationship, if any, between APS and Alpha Telecommunications, Inc., and (5) the manner in which APS calculated its reduced lunch population. Each area of questioning is addressed in turn

1. The WSCA RFP Required Offerors To Submit Proposals Detailing Their Ability To Provide Maintenance And Other Related Support Services

RFP 90-00151 clearly called for offerors to provide the maintenance and support services in question. In fact, the RFP itself was titled "Manufacturer Supplied Computer Equipment with Peripherals, Software, Equipment Maintenance and Support Services" See RFP p. 1 (emphasis added) (attached as Exhibit "H" to APS' Request for Review). The RFP goes on to state that the "purpose of this Request for Proposals (RFP) is to establish price agreements on a competitive basis with qualified computer equipment manufacturers who shall directly supply computer equipment. and maintenance and support services to qualified purchasers "See RFP p. 4(A) (emphasis added).

When summarizing the scope of work called for in the RFP, WSCA stated that "[c]ontractors are required to provide maintenance services on equipment that is purchased" See RFP p 4(B) (emphasis added). Furthermore, the scope of the RFP included "a wide range of manufacturer supplied computing equipment, including peripherals, general-purpose software, maintenance and support services." See RFP

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Tel 505 848 1800 www.modrall.com p 4(C) (emphasis added) In fact, the stated mission of the WSCA "is to implement multi-state contracts to achieve cost-effective and efficient acquisition of quality products and services" See RFP p. 8 (emphasis added)

In outlining the specifications and other relevant information offerors were to use in preparing their proposals, the RFP stated that offerors "must describe their ability to provide computer equipment including related products and support services to the WSCA states and the various governmental entities therein" See RFP p 23(B)(1) (emphasis added)

2. IBM's Bid Contained Proposals Relating To Its Ability To Provide Maintenance And Other Support Services

In addition to simply requiring offerors to include maintenance and other support services as part of their proposals, WSCA factored an offeror's ability to provide these services into the scoring of the proposals. For instance, up to 40 points were awarded based on an offeror's ability to provide technical and marketing personnel in the applicable geographic area. See RFP p. 29 (B)(1)(b). Twenty points were available to offerors who could offer "value added technical services including installation, training or directly related optional services. "See RFP p. 30(B)(1)(e). Additionally, up to 25 points were awarded based upon "the number and type of technical support services than [an offeror] proposed." See RFP p. 30(B)(4).

As the Evaluation Committee summary makes clear, IBM scored well in all of these support service/maintenance areas. For instance, IBM's proposal received 37 out of 40 points in the area of technical/marketing personnel provided in the coverage area. See Evaluation Committee Charts (attached as Exhibit "L" to APS' Request for Review). IBM also received one of the higher scores in the area of Value Added Services (installation, training, and directly related optional services) by receiving 16.6 out of a possible 20 points. Id. IBM's proposal received another high score in the area of technical services (19.2 of 25 points). Id. Based on its high scores in these (and other) areas, IBM was selected as one of five companies to receive price agreements with WSCA.

3. The Prices Available Under The 1999 IBM Master Price Agreement 94-00151 Are Subject To Periodic Changes

As stated in the RFP, "It he procuring agencies shall pay the lower of the prices contained in the ESS [Equipment and Service Schedule] or an announced promotion price, educational discount price, general price reduction price or large order negotiated price." See RFP p. 44(13). ESS prices are "the prices offered to WSCA members exclusive of Announced Promotional Prices, Educational Discount Prices, General Price Reductions, or Large Order Negotiated Prices." See RFP pp. 36-37. Accordingly, the most a purchaser would pay under the Master Price Agreement is the ESS price, a special price offered to WSCA members. However, purchasers may also be entitled to various discounted prices in the form of promotional discounts, educational discounts, large order discounts, etc. Additionally, as explained in APS' Request for Review, the procurement also included additional, predetermined discount percentages to be applied after cumulative sales volume levels passed certain "trigger points," at which time additional price discounts would automatically kick in See APS Request for Review, Exhibit "P"

Although the Master Price Agreements with the five finalists were reached in 1999, the prices charged under the agreements are not stagnant. Rather, the ESS prices are subject to change. Generally, these prices have been updated annually. IBM's current prices for WSCA Agreement 94-00151 are available at http://www-1ibm.com/gold/portal/servlet/gold/wsca/Content?contentURL=/gold/portal/html/en_US16/74665 himl&page=Content (webpage attached as Exhibit "A"), see also IBM's 2003-2004 ESS prices for support services (attached as Exhibit "B"). When APS (or any other purchaser) orders maintenance or support services from IBM, the relevant ESS prices for the services requested can be found at this site. IBM used the current WSCA prices to develop the Statement of Work which APS accepted and included in its 471 because it believed the WSCA prices to be the lowest available. Please recall that APS did not accept the entirety of the IBM proposal. For example, video conferencing was rejected, as it was not part of APS' Technology Master Plan

4. APS Was Solely Responsible For Developing And Drafting Its Forms 470 And 471

During our meeting last week, APS was asked a series of questions related to Alpha Telecommunications, Inc. ("Alpha")—Specifically, APS was asked: (1) what was the relationship between APS and Alpha?; (2) did APS make any payments to Alpha?, and (3) why APS thought Alpha did not request payment? Although this line of questioning was not anticipated, APS responded accurately and truthfully—If you'll recall, APS' Technology Master Planner, Maureen Davidson, stated that Alpha visited APS and discussed ways in which it believed it could help APS with its request for E-rate funding—Ms—Davidson further explained that Alpha did so voluntarily and did not request (nor did APS provide) payment—As to why Alpha met with APS and provided its perspective on E-rate funding requests, Ms—Davidson stated that Alpha was perhaps attempting to garner favor with APS in hopes of securing future business.

APS has subsequently learned that Alpha is under investigation by the Committee on Energy and Commerce. Accordingly, APS would like to make it very clear that while APS met with Alpha and Alpha provided insight into the E-rate process, APS' Technology Department, using the APS Technology Master Plan as a guide, was responsible for preparing the 470 and 471. As explained in APS' Request for Review, the information contained in these forms was a direct byproduct of APS' Technology Master Plan and the result of many hours of planning from the Technology Department. In short, the 470 and 471 fillings were the product of APS and not Alpha.

5. Calculation Of Free And Reduced Lunch Population

Lastly, there appeared to be some concern as to how APS calculated the number of students qualifying for the free or reduced lunch program. In New Mexico, funding is determined in part by the number of students a district has that qualify for the free or reduced lunch program. For instance, New Mexico has an Incentives Program (based on the Incentives for School Improvement Act), as well as an Intervention Program. Schools evidencing the greatest increase in test scores from one year to the next may receive monetary awards. Conversely, public schools whose performance is "low" may be subjected to corrective actions and interventions. Under both programs, test scores are adjusted by a number of socioeconomic factors, including the percent of students eligible for free or reduced lunch under the National

School Lunch Program In making these calculations, APS uses what's known as the 40-day count Essentially, an enrollment "snapshot" is taken on the 40th day of the school year to determine the number of children enrolled in the district. The 40-day count determines the operational budget for the coming year and permits an analysis of the number of children at each school who are eligible for the free or reduced lunch program

In applying for E-rate funding, APS used the numbers available to it from the 40-day count in determining the number of students at each school who are eligible for the National School Lunch Program. The remainder of the calculations (i.e., the discount percentages for each school from the Discount Matrix; the weighted product for calculating the shared discount, the sum total of the weighted products for all schools, the weighted average discount percentage, etc.) were automatically performed for APS when it filed online.

I trust you will find these answers satisfactory Please let me know if we can be of any more assistance

Sincerely,

Arthur D. Melendres

Counsel

Albuquerque Public School District

Withy Melendres

ADM/acw/w₀₃₁₇₇₄₆ DOC Enclosure – as stated

cc Commissioner Kathleen Abernathy

Commissioner Michael Copps

William Maher, Chief, Wireline Competition Bureau

Christopher Libertelli

Matthew Brill

Jessica Rosenworcel

Scott Bergmann

Carol Mattey, Deputy Chief, Wireline Competition Bureau

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Narda Jones

Jonathan Secrest

Kathy Toligh

Sheryl Todd, Telecommunications Access Policy Division

Qualex International

Vincent J Curtis, Jr

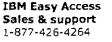
Frank R Jazzon

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Members, APS Board of Education

APS Superintendent, Elizabeth Everitt

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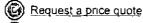
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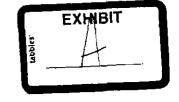
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9 Prognitech Consulting Travel time (see Sa.) is biliable at the same hounly rates as set forth in the

- 4 Hourly Maintenance Parts/Travel asparate Travel \$ 60/mile it Sive Center to Sive location
 - 3 Hourty Maintenance 2 Hour minimum

 - 2 Hourly Maintenance Rate is per houriper person

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Multivendor with no IBM OS (preliminary)

Flat Fee mach #1 in each oper System TOYAL SYSTEMS SOFTWARE SUPPORT

ACCOUNT ADVOCATE HOURLY RATES *

Additional machine after 1st (each)

Additional machine after 1st (each)

MULTIPLE OPERATING SYSTEM COVERAGE

Additional machine after 1st (each)

SUPPORT LINE OPTIONS

SINCLE SYSTEM SOFTWARE SUPPORT

Uplift on Total Price

Machine Class 4

Machine Class 3

Machine Class 2

Machine Class 1

HOURLY MAINTENANCE SERVICE RATES *

Services price list. Miksge shall be relimburaed at a rate not exceed \$ 50 per mile

Me detailed in the detailed in the specific contract and them will be detailed in the bare agreement

specific hounty maintenance services call and thus made part of this agreement. 6 Hourty Maintenance. Parts costs are separate and will be detailed on the involce for the 2 Hourty Maintenance 1/10th Hourty rate Incurred during IBM sinomial working hours

Additional Notes

implications or exemptions

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ALL PRICES ARE SUBJECT TO CHANGE AT ANY TIME.



00 968\$

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258 00

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Systems

Operating

92 XIA/XIA

00 946\$

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00 261\$

SINOH

Regular

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MONTHLY CHARGE PER SUPPORT LINE OPTION

00 81\$

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00 968\$

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Systems

Operating

\$172.00 235200

\$530,00

\$172 00

Rate Hourly

• PRICES ARE SUBJECT TO CHANGE AND ARE AVAILABLE UPON REQUEST AS A QUOTE OR STATEMENT OF WORK

• PRICES ARE SUBJECT TO CHANGE AND ARE AVAILABLE UPON REQUEST AS A QUOTE OR STATEMENT OF WORK

48 XIA/XIA NC

Additional machine after 1st (each) Multivendor with no IBM OS	\$50 00 \$2,750 00	\$28 00
CROSS-SYSTEM PRODUCT SOFTWARE SUPPORT		
AD	\$12,777 00	
COMM	\$15,840 00	
DM	\$11,847 00	
I/E	\$10,919 00	
TS	\$12,777 00	
NSM	\$11,847 00	
WG	\$10,771 00	
IN10	\$15,331 00	
IND11	\$8,646 00	
IND12	\$10,875 00	
IND13	\$10,875 00	
IND15	\$ 58,495 00	
IND16	\$58,495 00	
IND17	\$58,495 00	
Addni Acct Advocate NOTES		
For SP machines		
Flat Fee for 1st Node	\$396 00	
Additional Nodes After 1st (each)	\$28 00	
For PS platform		
Based on same server methodology in SL		
Flat Fee for 1st Server	\$ 396 0 0	
Additional Servers after 1st (each)	\$50 00	

Multivendor with IBM Operating System Calculated the same as IBM Platform No additional charge for the Independent Products group

PROGRAMMING SERVICES HOURLY RATES'

* PRICES ARE SUBJECT TO CHANGE AND ARE AVAILABLE UPON REQUEST AS A QUOTE OR STATEMENT OF WORK Codes, and tests software based upon software specifications and designs.

Uses sound software engineering principles to ensure that developed code

is modifiable efficient, reliable, understandable, and fault tolerant. Provides

software process management and control throughout the coding portion

of the software development process

Experience	Hourly	
Level	Rates	Position Title
Α	\$269 00	Sonior Consultant I/T Specialist
В	\$235 00	Certified I/T Specialist
С	\$204 00	Senior I/T Specialist
D	\$176 00	Advisory I/T Specialist
G	\$149 00	Senior Programmer/Analyst
I	\$121 00	Junior Programmer/Analyst
J, K	\$106 00	Journeyman ProgrammenAnalyst
C, D, E, F	\$204 00	Programmer/Analyst
G, H, I	\$149 00	Systems Programmer/Analyst

TECHNICAL AND CONSULTING SERVICES HOURLY RATES*

^{*} PRICES ARE SUBJECT TO CHANGE AND ARE AVAILABLE UPON REQUEST AS A QUOTE OR STATEMENT OF WORK

Provide managerial and technical leadership for development, implementation and operations of complex information technology systems implementation

EXPERIENCE LEVEL	HOURLY RATES	Experience Level Description
A Prime	\$400 00	Up tolexceed 25yrs expering complex VT systems
		w/expertise in specific discipline
A	\$293 00	Up to/exceed 25yrs experiling, cumplex I/T systems
В	\$256 00	t/p to/exceed 20yrs exper try_complex I/T systems
С	\$222 00	Up to/exceed 15yrs exper lirg_complex I/T systems
D	\$192 00	Up (a/exceed 12yrs exper Irg inlegrated systems
E	\$180 00	Deep understanding of architechniques imagnit process
		across broad systems, applicit, and requirements spectrum
F	\$173 00	Generally regarded as expert in particular discipline/
		technology
G	\$162 00	Broad knowledge of labor category field w/ability to
		independently work complex assignments
н	\$153 0 0	Significant knowledge of labor category field w/ability to
• •	******	independently work typical assignments
1	\$132 00	General knowledge of labor category field w/ability to work
'	\$ 102 55	w/mnimal supervision
J	\$116 00	Basic knowledge of labor category field w/ability to work
ŭ	V 110 U 5	w/supervision
к	\$83 00	Some knowledge of labor category field w/ability to work
IN	400 00	w/supervision.
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Services Hourly xls